

AMENDED IN SENATE JUNE 1, 2016

AMENDED IN ASSEMBLY APRIL 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2910

Introduced by Committee on Local Government (Assembly Members Eggman (Chair), Waldron (Vice Chair), Alejo, Bonilla, Chiu, Cooley, Gordon, and Linder)

March 15, 2016

An act to amend Sections 56134, 56301, 56331, 56700.4, 56816, 56881, ~~and 57130~~ 57077.1, *and 57130* of the Government Code, relating to local government.

LEGISLATIVE COUNSEL’S DIGEST

AB 2910, as amended, Committee on Local Government. Local government: organization: omnibus bill.

(1) The Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 provides the exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts, except as specified. Under existing law, with certain exceptions, a public agency is authorized to exercise new or extended services outside the public agency’s jurisdictional boundaries pursuant to a fire protection contract only if the public agency receives written approval from the local agency formation commission in the affected county. Existing law defines the term “jurisdictional boundaries” for these purposes. Existing law, for these purposes, references a public agency’s current service area.

This bill would revise these provisions to remove references to a public agency’s current service area and instead include references to

the public agency's jurisdictional boundaries. The bill would additionally make other technical changes.

(2) Existing law states that the purpose of a local agency formation commission is, among other things, to efficiently provide government services.

This bill would instead provide that one of the purposes of a commission is to encourage the efficient provision of government services.

(3) Existing law establishes the membership of local agency formation commissions in each county, and authorizes appointment of a public member and an alternate public member.

This bill would require the public member and alternate public member to be residents of the ~~affected county~~ *county of the appointing commission*.

(4) Existing law requires a proponent of a change of organization or reorganization, of cities and districts, to file a notice of intention with the local agency formation commission prior to circulating a petition, as specified.

This bill would exempt from this requirement a petition signed by landowners if all parcels within the affected territory are vested under the same ownership.

(5) Existing law requires a city that is subject to disincorporation to ascertain information relating to the city's debt or contractual obligations and responsibilities, and provide a written statement to the local agency formation commission that includes, among other things, the amount of any tax levy or other obligation due to the city that is unpaid or has not been collected.

This bill would *instead require this element of the written statement to include the amount of any tax levy, assessment, or other obligation due to the city that is unpaid or has not been collected, and would make a an additional technical change to this provision.* ~~change.~~

(6) Existing law requires a local agency formation commission to adopt a resolution making determinations approving or disapproving a proposal, and requires the resolution for a proposal initiated by the commission to make a determination that a change of organization or reorganization that is authorized by the commission promotes public access and accountability for community services needs and financial resources.

This bill would make a technical change to this provision.

(7) Existing law requires notice of each change of organization or reorganization election to be given by publication, posting, and mailing, as specified.

This bill would correct an incorrect cross reference in this provision.

(8) *Existing law, notwithstanding specified requirements with respect to dissolution of a local agency, authorizes a local agency formation commission, if a change of organization consists of the dissolution of a district that is consistent with a prior action of the commission, as provided, to order the dissolution either without election or protest proceedings if the dissolution is initiated by the district board or without an election following at least one noticed public hearing and protest proceeding if the dissolution is initiated by an affected local agency.*

This bill would authorize the commission to order the above-described dissolutions with respect to local hospital districts notwithstanding a statutory requirement that an order of dissolution of these districts be subject to voter confirmation.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 56134 of the Government Code is
2 amended to read:
3 56134. (a) (1) For the purposes of this section, “fire protection
4 contract” means a contract or agreement for the exercise of new
5 or extended fire protection services outside a public agency’s
6 jurisdictional boundaries, as authorized by Chapter 4 (commencing
7 with Section 55600) of Part 2 of Division 2 of Title 5 of this code
8 or by Article 4 (commencing with Section 4141) of Chapter 1 of
9 Part 2 of Division 4 of the Public Resources Code, except those
10 contracts entered into pursuant to Sections 4143 and 4144 of the
11 Public Resources Code, that does either of the following:
12 (A) Transfers responsibility for providing services in more than
13 25 percent of the area within the jurisdictional boundaries of any
14 public agency affected by the contract or agreement.
15 (B) Changes the employment status of more than 25 percent of
16 the employees of any public agency affected by the contract or
17 agreement.
18 (2) A contract or agreement for the exercise of new or extended
19 fire protection services outside a public agency’s jurisdictional

boundaries, as authorized by Chapter 4 (commencing with Section 55600) of Part 2 of Division 2 of Title 5 of this code or Article 4 (commencing with Section 4141) of Chapter 1 of Part 2 of Division 4 of the Public Resources Code, except those contracts entered into pursuant to Sections 4143 and 4144 of the Public Resources Code, that, in combination with other contracts or agreements, would produce the results described in subparagraph (A) or (B) of paragraph (1) shall be deemed a fire protection contract for the purposes of this section.

(3) For the purposes of this section, “jurisdictional boundaries” shall include the territory or lands protected pursuant to a fire protection contract entered into on or before December 31, 2015. An extension of a fire protection contract entered into on or before December 31, 2015, that would produce the results described in subparagraph (A) or (B) of paragraph (1) shall be deemed a fire protection contract for the purposes of this section.

(b) Notwithstanding Section 56133, a public agency may provide new or extended services pursuant to a fire protection contract only if it first requests and receives written approval from the commission in the affected county pursuant to the requirements of this section.

(c) A request by a public agency for commission approval of new or extended services provided pursuant to a fire protection contract shall be made by the adoption of a resolution of application as follows:

(1) In the case of a public agency that is not a state agency, the application shall be initiated by the adoption of a resolution of application by the legislative body of the public agency proposing to provide new or extended services outside the public agency’s current jurisdictional boundaries.

(2) In the case of a public agency that is a state agency, the application shall be initiated by the director of the state agency proposing to provide new or extended services outside the agency’s current jurisdictional boundaries and be approved by the Director of Finance.

(3) In the case of a public agency that is a local agency currently under contract with a state agency for the provision of fire protection services and proposing to provide new or extended services by the expansion of the existing contract or agreement,

1 the application shall be initiated by the public agency that is a local
2 agency and be approved by the Director of Finance.

3 (d) The legislative body of a public agency or the director of a
4 state agency shall not submit a resolution of application pursuant
5 to this section unless both of the following occur:

6 (1) The public agency does either of the following:

7 (A) Obtains and submits with the resolution a written agreement
8 validated and executed by each affected public agency and
9 recognized employee organization that represents firefighters of
10 the existing and proposed service providers consenting to the
11 proposed fire protection contract.

12 (B) Provides, at least 30 days prior to the hearing held pursuant
13 to paragraph (2), written notice to each affected public agency and
14 recognized employee organization that represents firefighters of
15 the existing and proposed service providers of the proposed fire
16 protection contract and submits a copy of each written notice with
17 the resolution of application. The notice shall, at minimum, include
18 a full copy of the proposed contract.

19 (2) The public agency conducts an open and public hearing on
20 the resolution, conducted pursuant to the Ralph M. Brown Act
21 (Chapter 9 (commencing with Section 54950) of Part 1 of Division
22 2 of Title 5) or the Bagley-Keene Open Meeting Act (Article 9
23 (commencing with Section 11120) of Chapter 1 of Part 1 of
24 Division 3 of Title 2), as applicable.

25 (e) A resolution of application submitted pursuant to this section
26 shall be submitted with a plan which shall include all of the
27 following information:

28 (1) The total estimated cost to provide the new or extended fire
29 protection services in the affected territory.

30 (2) The estimated cost of the new or extended fire protection
31 services to customers in the affected territory.

32 (3) An identification of existing service providers, if any, of the
33 new or extended services proposed to be provided and the potential
34 fiscal impact to the customers of those existing providers.

35 (4) A plan for financing the exercise of the new or extended fire
36 protection services in the affected territory.

37 (5) Alternatives for the exercise of the new or extended fire
38 protection services in the affected territory.

39 (6) An enumeration and description of the new or extended fire
40 protection services proposed to be extended to the affected territory.

1 (7) The level and range of new or extended fire protection
2 services.

3 (8) An indication of when the new or extended fire protection
4 services can feasibly be extended to the affected territory.

5 (9) An indication of any improvements or upgrades to structures,
6 roads, sewer or water facilities, or other conditions the public
7 agency would impose or require within the affected territory if the
8 fire protection contract is completed.

9 (10) A determination, supported by documentation, that the
10 proposed fire protection contract meets the criteria established
11 pursuant to subparagraph (A) or (B) of paragraph (1) or paragraph
12 (2), as applicable, of subdivision (a).

13 (f) The applicant shall cause to be prepared by contract an
14 independent fiscal analysis to be submitted with the application
15 pursuant to this section. The analysis shall review and document
16 all of the following:

17 (1) A thorough review of the plan for services submitted by the
18 public agency pursuant to subdivision (e).

19 (2) How the costs of the existing service provider compare to
20 the costs of services provided in service areas with similar
21 populations and of similar geographic size that provide a similar
22 level and range of services and make a reasonable determination
23 of the costs expected to be borne by the public agency providing
24 new or extended fire protection services.

25 (3) Any other information and analysis needed to support the
26 findings required by subdivision (j).

27 (g) The clerk of the legislative body of a public agency or the
28 director of a state agency adopting a resolution of application
29 pursuant to this section shall file a certified copy of the resolution
30 with the executive officer.

31 (h) (1) The executive officer, within 30 days of receipt of a
32 public agency's request for approval of a fire protection contract,
33 shall determine whether the request is complete and acceptable
34 for filing or whether the request is incomplete. If a request does
35 not comply with the requirements of subdivision (d), the executive
36 officer shall determine that the request is incomplete. If a request
37 is determined incomplete, the executive officer shall immediately
38 transmit that determination to the requester, specifying those parts
39 of the request that are incomplete and the manner in which they
40 can be made complete. When the request is deemed complete, the

1 executive officer shall place the request on the agenda of the next
2 commission meeting for which adequate notice can be given but
3 not more than 90 days from the date that the request is deemed
4 complete.

5 (2) The commission shall approve, disapprove, or approve with
6 conditions the contract for new or extended services following the
7 hearing at the commission meeting, as provided in paragraph (1).
8 If the contract is disapproved or approved with conditions, the
9 applicant may request reconsideration, citing the reasons for
10 reconsideration.

11 (i) (1) The commission shall not approve an application for
12 approval of a fire protection contract unless the commission
13 determines that the public agency will have sufficient revenues to
14 carry out the exercise of the new or extended fire protection
15 services outside its jurisdictional boundaries, except as specified
16 in paragraph (2).

17 (2) The commission may approve an application for approval
18 of a fire protection contract where the commission has determined
19 that the public agency will not have sufficient revenue to provide
20 the proposed new or different functions or class of services, if the
21 commission conditions its approval on the concurrent approval of
22 sufficient revenue sources pursuant to Section 56886. In approving
23 a proposal, the commission shall provide that, if the revenue
24 sources pursuant to Section 56886 are not approved, the authority
25 of the public agency to provide new or extended fire protection
26 services shall not be exercised.

27 (j) The commission shall not approve an application for approval
28 of a fire protection contract unless the commission determines,
29 based on the entire record, all of the following:

30 (1) The proposed exercise of new or extended fire protection
31 services outside a public agency's jurisdictional boundaries is
32 consistent with the intent of this division, including, but not limited
33 to, the policies of Sections 56001 and 56300.

34 (2) The commission has reviewed the fiscal analysis prepared
35 pursuant to subdivision (f).

36 (3) The commission has reviewed any testimony presented at
37 the public hearing.

38 (4) The proposed affected territory is expected to receive
39 revenues sufficient to provide public services and facilities and a
40 reasonable reserve during the three fiscal years following the

1 effective date of the contract or agreement between the public
2 agencies to provide the new or extended fire protection services.

3 (k) At least 21 days prior to the date of the hearing, the executive
4 officer shall give mailed notice of that hearing to each affected
5 local agency or affected county, and to any interested party who
6 has filed a written request for notice with the executive officer. In
7 addition, at least 21 days prior to the date of that hearing, the
8 executive officer shall cause notice of the hearing to be published
9 in accordance with Section 56153 in a newspaper of general
10 circulation that is circulated within the territory affected by the
11 proposal proposed to be adopted and shall post the notice of the
12 hearing on the commission's Internet Web site.

13 (l) The commission may continue from time to time any hearing
14 called pursuant to this section. The commission shall hear and
15 consider oral or written testimony presented by any affected local
16 agency, affected county, or any interested person who appears at
17 any hearing called and held pursuant to this section.

18 (m) This section shall not be construed to abrogate a public
19 agency's obligations under the Meyers-Milias-Brown Act (Chapter
20 10 (commencing with Section 3500) of Division 4 of Title 1).

21 SEC. 2. Section 56301 of the Government Code is amended
22 to read:

23 56301. Among the purposes of a commission are discouraging
24 urban sprawl, preserving open-space and prime agricultural lands,
25 encouraging the efficient provision of government services, and
26 encouraging the orderly formation and development of local
27 agencies based upon local conditions and circumstances. One of
28 the objects of the commission is to make studies and to obtain and
29 furnish information which will contribute to the logical and
30 reasonable development of local agencies in each county and to
31 shape the development of local agencies so as to advantageously
32 provide for the present and future needs of each county and its
33 communities. When the formation of a new government entity is
34 proposed, a commission shall make a determination as to whether
35 existing agencies can feasibly provide the needed service or
36 services in a more efficient and accountable manner. If a new
37 single-purpose agency is deemed necessary, the commission shall
38 consider reorganization with other single-purpose agencies that
39 provide related services.

1 SEC. 3. Section 56331 of the Government Code is amended
2 to read:

3 56331. When appointing a public member pursuant to Sections
4 56325, 56326, 56326.5, 56327, 56328, 56328.5, and 56329, the
5 commission may also appoint one alternate public member who
6 may serve and vote in place of a regular public member who is
7 absent or who disqualifies himself or herself from participating in
8 a meeting of the commission. The public member and the alternate
9 public member shall be residents of the ~~affected county~~. *county of*
10 *the appointing commission*.

11 If the office of a regular public member becomes vacant, the
12 alternate member may serve and vote in place of the former regular
13 public member until the appointment and qualification of a regular
14 public member to fill the vacancy.

15 No person appointed as a public member or alternate public
16 member pursuant to this chapter shall be an officer or employee
17 of the county or any city or district with territory in the county,
18 provided, however, that any officer or employee serving on January
19 1, 1994, may complete the term for which he or she was appointed.

20 SEC. 4. Section 56700.4 of the Government Code is amended
21 to read:

22 56700.4. (a) Before circulating any petition for change of
23 organization, the proponent shall file with the executive officer a
24 notice of intention that shall include the name and mailing address
25 of the proponent and a written statement, not to exceed 500 words
26 in length, setting forth the reasons for the proposal. The notice
27 shall be signed by a representative of the proponent, and shall be
28 in substantially the following form:

29
30 Notice of Intent to Circulate Petition

31
32 Notice is hereby given of the intention to circulate a petition
33 proposing to ____.

34 The reasons for the proposal are:

35 (b) After the filing required pursuant to subdivision (a), the
36 petition may be circulated for signatures.

37 (c) Upon receiving the notice, the executive officer shall notify
38 affected local agencies.

39 (d) The notice requirements of this section shall apply in addition
40 to any other applicable notice requirements.

(e) This section shall not apply to any petition signed by landowners if all parcels within the affected territory are vested under the same ownership.

SEC. 5. Section 56816 of the Government Code is amended to read:

56816. (a) It is the intent of the Legislature that any proposal that includes the disincorporation of a city result in a determination that the debt or contractual obligations and responsibilities of the city being disincorporated shall be the responsibility of that same territory for repayment. To ascertain this information, the city shall provide a written statement that determines and certifies all of the following to the commission prior to the issuance of a certificate of filing for a disincorporation proposal, pursuant to Sections 56651 and 56658:

(1) The indebtedness of the city.

(2) The amount of money in the city's treasury.

(3) The amount of any tax ~~levy~~ *levy, assessment*, or other obligation due to the city that is unpaid or has not been collected.

(4) The amount of current and future liabilities, both internal debt owed to other special or restricted funds or enterprise funds within the agency and external debt owed to other public agencies or outside lenders or that results from contractual obligations, which may include contracts for goods or services, retirement obligations, actuarially determined unfunded pension liability of all classes in a public retirement system, including any documentation related to the termination of public retirement contract provisions, and the liability for other postemployment benefits. The information required by this paragraph shall include any associated revenue stream for financing that may be or has been committed to that liability, including employee contributions.

(b) The city shall provide a written statement identifying the successor agency to the city's former redevelopment agency, if any, pursuant to Section 34173 of the Health and Safety Code.

SEC. 6. Section 56881 of the Government Code is amended to read:

56881. The resolution making determinations shall also do all of the following:

(a) Make any of the findings or determinations authorized or required pursuant to Section 56375.

1 (b) For any proposal initiated by the commission pursuant to
2 subdivision (a) of Section 56375, make both of the following
3 determinations:

4 (1) Public service costs of a proposal that the commission is
5 authorizing are likely to be less than or substantially similar to the
6 costs of alternative means of providing the service.

7 (2) A change of organization or reorganization that is authorized
8 by the commission promotes public access and accountability for
9 community services needs and financial resources.

10 (c) If applicable, assign a distinctive short-term designation to
11 the affected territory and a description of the territory.

12 (d) Initiate protest proceedings pursuant to Part 4 (commencing
13 with Section 57000) in compliance with the resolution.

14 *SEC. 7. Section 57077.1 of the Government Code is amended*
15 *to read:*

16 57077.1. (a) If a change of organization consists of a
17 dissolution, the commission shall order the dissolution without
18 confirmation of the voters, except if the proposal meets the
19 requirements of subdivision (b), the commission shall order the
20 dissolution subject to confirmation of the voters.

21 (b) The commission shall order the dissolution subject to the
22 confirmation of the voters as follows:

23 (1) If the proposal was not initiated by the commission, and if
24 a subject agency has not objected by resolution to the proposal,
25 the commission has found that protests meet one of the following
26 protest thresholds:

27 (A) In the case of inhabited territory, protests have been signed
28 by either of the following:

29 (i) At least 25 percent of the number of landowners within the
30 affected territory who own at least 25 percent of the assessed value
31 of land within the territory.

32 (ii) At least 25 percent of the voters entitled to vote as a result
33 of residing within, or owning land within, the affected territory.

34 (B) In the case of a landowner-voter district, that the territory
35 is uninhabited and that protests have been signed by at least 25
36 percent of the number of landowners within the affected territory
37 owning at least 25 percent of the assessed value of land within the
38 territory.

(2) If the proposal was not initiated by the commission, and if a subject agency has objected by resolution to the proposal, written protests have been submitted as follows:

(A) In the case of inhabited territory, protests have been signed by either of the following:

(i) At least 25 percent of the number of landowners within any subject agency within the affected territory who own at least 25 percent of the assessed value of land within the territory.

(ii) At least 25 percent of the voters entitled to vote as a result of residing within, or owning land within, any subject agency within the affected territory.

(B) In the case of a landowner-voter district, that the territory is uninhabited and protests have been signed by at least 25 percent of the number of landowners within any subject agency within the affected territory, owning at least 25 percent of the assessed value of land within the subject agency.

(3) If the proposal was initiated by the commission, and regardless of whether a subject agency has objected to the proposal by resolution, written protests have been submitted that meet the requirements of Section 57113.

(c) Notwithstanding subdivisions (a) and (b) and ~~Section 57102, Sections 57102 and 57103~~, if a change of organization consists of the dissolution of a district that is consistent with a prior action of the commission pursuant to Section 56378, 56425, or 56430, the commission may do either of the following:

(1) If the dissolution is initiated by the district board, immediately approve and order the dissolution without an election or protest proceedings pursuant to this part.

(2) If the dissolution is initiated by an affected local agency, by the commission pursuant to Section 56375, or by petition pursuant to Section 56650, order the dissolution after holding at least one noticed public hearing, and after conducting protest proceedings in accordance with this part. Notwithstanding any other law, the commission shall terminate proceedings if a majority protest exists in accordance with Section 57078. If a majority protest is not found, the commission shall order the dissolution without an election.

~~SEC. 7.~~

SEC. 8. Section 57130 of the Government Code is amended to read:

1 57130. The elections official shall cause notice of each change
2 of organization or reorganization election to be given by
3 publication, posting, and mailing as provided in Chapter 2
4 (commencing with Section 57025) of Part 4.

O